IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8867 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JIVANBHAI V PATEL

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8867 of 2003

MR UDAYAN P VYAS for Petitioner No. 1

MR KP RAVAL AGP for Respondent no.1

RULE SERVED for Respondent No. 1,3-2

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 23/07/2004

ORAL JUDGEMENT

1.0 The petitioner herein has preferred this petition in order to direct the respondent authorities to

reimburse the medical expenses incurred by the petitioner to the tune of Rs.1,53,620/- along with interest at the rate of 12% p.a. from the date of first application made by the petitioner to respondent no.2 till the date of actual payment.

2.0 The petitioner, an Asst.Teacher in Smt.Hiraben Dahyabhai Patel Vidhyalaya, District Banaskantha made application dated 07/03/02 before respondent no.2, claiming reimbursement of the medical expenses of the operation which was carried on her wife on 07/11/01. It is the case of the petitioner that he had submitted the aforesaid medical bills along with all the necessary documents through proper channel i.e. through respondent no.3 herein.

2.1 The said application was returned by the office of respondent no.2 and it was stated therein that the petitioner should get approval from the R.M.O., Civil Hospital as well as from the Administrative Section of the Commissioner's Office, Gandhinagar. When the petitioner approached the R.M.O, Civil Hospital, he refused to sign the application and instead, asked the petitioner to make application through proper channel. The petitioner again filed another application dated 19/07/02, addressed to respondent no.2 through respondent no.3, for getting reimbursement of the medical expenses. No action was taken by respondent no.2 for about five months to that respect.

2.2 On 16/12/02 the application of the petitioner along with all the supporting documents were returned to the petitioner, on the ground that the application filed by the petitioner was beyond the prescribed period of limitation and hence cannot be entertained. The petitioner made another application dated 19/07/02 to respondent no.2 but the same was also returned on the ground of delay. Hence, this petition.

3.0 Mr.U P Vyas learned advocate for the petitioner has submitted that no where in the Government Resolution, it is mentioned that what was the prescribed time limit for the submission of the medical bills and how many days delay is permitted in the tendering of the said application. He has, therefore, requested to direct the respondent authorities to reimburse the medical expenses incurred by the petitioner.

4.0 I have heard the learned advocates for the parties and have perused the papers. The operation on his wife took place on 07/11/01 and the proposal was

submitted within two months. In spite of that respondent no.2 has rejected the application on the ground of limitation. Prima facie, the order is passed without application of mind, inasmuch as the Government Resolution placed on record has not prescribed any time limit for the submission of the medical bills application. Therefore, the order of respondent no.2 dated 19/07/02 is required to be quashed and set aside.

5.0 For the foregoing reasons, this petition is allowed. The order of respondent no.2 dated 19/07/02 is quashed and set aside. It is directed that respondent no.2 will forward the proposal of the petitioner to respondent no.1 or to the Office of the Commissioner, Gandhinagar, after necessary verification of the documents which may be produced by the petitioner and the same shall be decided within a period of two months from the date of receipt of this order. Rule is made absolute to the aforesaid extent with no orders as to costs.

(K. S. Jhaveri, J.)

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